S. B. Civil Transfer Petition No. 17/2006
(Bhuvnesh Mehta v. The Civil Judge (JD), Banswara & Another)
1.

Date of Order: 22-01-2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.B.K.Vyas, for Petitioner.
Mr.Parikshat Naya, for Respondents.

On 9th January, 2007 inadvertently by mistake the order has been transcribed in S. B. Civil Second Appeal No.17/2006, therefore, the transfer petition has been listed in Court today.

The non-petitioner No.2 filed a suit for recovery of Rs.10,000/- regarding his remuneration for conducting cases of the petitioner which is pending before the Court of Civil Judge (Junior Division),Banswara. The petitioner's grievance is that non-petitioner No.2 is Advocate practising at Banswara and beause of his influence, no other Advocate is ready to accept the brief on behalf of the petitioner, who is defendant in the case of the non-petitioner.

Reply has been filed by the non-petitioner-plaintiff who was counsel for the petitioner in one of the criminal case filed under Section 138 of the Negotiable Instruments Act by the petitioner, through his Advocate non-petitioner No2. Along with

the reply, the non-petitioner No.2 has annexed affidavits of 26 advocates to state that the petitioner never contacted them to contest the case on behalf of the petitioner which was filed by the non-petitioner No.2 against the petitioner. The contention of the learned counsel for the petitioner is that the petitioner cannot get proper legal assistance if the case remained at Banswara which is apparent from the fact that now, about 26 advocates have filed affidavits against the petitioner in relation to the subject-matter arising out of the suit filed by the non-petitioner, may it be in transfer petition.

Learned counsel for the non-petitioner vehemently submitted that by these affidavits, it is proved that the petitioner has wrongly filed the transfer petition and he did not contact at least these 26 advocates for contesting the case on petitioner's behalf.

I considered the submissions of the learned counsel for the parties.

The petitioner's contention is that he will not get assistance if the case remained at Banswara in view of the reasons that the 26 advocates have filed the affidavits in favour of non-petitioner No.2 against the petitioner, therefore, now, it may not be appropriate for them to accept the brief on behalf of the petitioner against whom these learned advocates have filed the

affidavits. In view of the facts that Banswara, though have very good number of advocates, but in the interest of justice it will be appropriate that the suit filed by the non-petitioner for the recovery of his remuneration amount be transferred to Udaipur Court which is said to be a nearest place outside Banswara. Further reason is that if, according to the non-petitioner, these 26 advocates are very good advocates to contest the case on behalf of the petitioner then, their disqualificatio is immaterial as they will not be able to contest the case on behalf of the petitioner.

In view of the above reasons, the transfer petition is allowed. The Civil Original Suit No.7/06 (Rahul Chanchawat v. Bhuvnesh Mehta), pending in the Court of the Civil Judge (Junnior Division), Banswara is hereby withdrawn and is transferred to the Court of the Civil Judge (Junior Division), North, Udaipur.

Both the parties are directed to appear before the Court of Civil Judge (Junior Division),North, Udaipur on Feburay 1, 2007.

(PRAKASH TATIA), J.

Scd.